

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

UNI-UNITED FACULTY,
Petitioner,

v.

PUBLIC EMPLOYMENT RELATIONS
BOARD,
Respondent,

and

STATE OF IOWA, BOARD OF REGENTS,
Intervenor.

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#AA-2337

RULING ON PETITION FOR JUDICIAL REVIEW

On July 29, 1994, the above-captioned matter came before the Court for telephonic oral argument relating to the petition for judicial review filed by UNI-United Faculty. Petitioner appeared by its attorney, Charles E. Gribble, Respondent PERB by its attorney, Jan V. Berry and Intervenor State of Iowa, Board of Regents by its attorney, Joseph E. Flynn. After hearing the arguments of counsel, reviewing the record of the proceedings below and the court file, and being fully advised in the premises, the Court now enters the following ruling.

The agency action under review is PERB's decision in a prohibited practice proceeding initiated by United Faculty against the Regents and the University of Northern Iowa. United Faculty had alleged that the Regents and UNI violated Iowa Code §§20.10(2)(a), (e) and (f) by refusing to bargain over the distribution of \$275,000 earmarked for teaching excellence awards by UNI's general appropriations legislation for the fiscal year ending June 30, 1991. PERB's final decision had concluded that United Faculty had failed to establish a violation by the Regents

or UNI. United Faculty subsequently commenced this judicial review proceeding, in which the Regents have intervened.

The court's review of agency decisions is at law and not *de novo*. Mortimer v. Fruehauf Corp., 502 N.W.2d 12, 14 (Iowa 1993). The court's review is restricted to determining whether the petitioner's substantial rights have been prejudiced because the agency action violated one of the criteria set out in Iowa Code §17A.19(8). Adair Benevolent Society v. State Insurance Division, 489 N.W.2d 1, 3 (Iowa 1992).

The issue between the parties concerns whether the appropriations bill, Senate File 2423 (1990 Iowa Acts, ch. 1272, §§14 et seq.), required the Regents to bargain collectively with United Faculty concerning the distribution of the earmarked funds, even though the parties had previously entered into and were then operating under a collective bargaining agreement negotiated in compliance with the provisions of Iowa Code chapter 20.

Unlike an appropriations provision passed in 1987, which had provided funds in excess of those necessary to fund the parties' then-effective collective agreement and had specifically directed them to bargain concerning the excess funds' distribution, the 1990 legislation upon which United Faculty bases its claim neither provided additional funds nor required the parties to revisit their previously-concluded negotiations, during which they had agreed upon provisions governing the making of teaching excellence awards. Instead, the 1990 legislation merely provided that "from monies available to the university of northern Iowa, \$275,000 shall be


expended for teaching excellence awards. . . ." United Faculty does not claim that less than \$275,000 was in fact distributed as teaching excellence awards.

In construing statutes, courts search for the legislature's intent as shown by what it said, rather than what it should or might have said. See, e.g., Ia.R.App.P. 14(f)(13); Ruthven Consolidated School District v. Emmetsburg Community School District, 382 N.W.2d 136, 140 (Iowa 1986). Had the legislature intended by its 1990 appropriation measure to require the Regents and United Faculty to bargain over the distribution of specified funds, it could have done so, as it had in 1987. It did not.

The Court has reviewed the briefs filed by each of the parties, the final decision filed by PERB on December 28, 1993, and the authority cited by the parties in those documents. The Court concludes that the decision of PERB was correct in all respects, and adopts the reasoning set forth in that decision. It follows that United Faculty has failed to establish the existence of any Iowa Code §17A.19(8) ground requiring the grant of relief from the PERB decision.

The decision of PERB issued December 28, 1993, is hereby AFFIRMED.

DATED this 12th day of September, 1994.


George Bergeson, Judge,
Fifth Judicial District of Iowa